

United States Senate

WASHINGTON, DC 20510

April 8, 2020

The Honorable Eugene Scalia
Secretary
U.S. Department of Labor
200 Constitution Ave, N.W.
Washington, D.C. 20210

The Honorable Chad F. Wolf
Acting Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave, S.E.
Washington, D.C. 20032

Dear Secretary Scalia and Acting Secretary Wolf:

We write to request that you develop and implement guidance that will provide flexibility in your administration of the H-2A temporary agricultural worker program during the COVID-19 crisis. These processing flexibilities will protect our nation's food security by ensuring that our farmers have the workers they need. We believe that providing these flexibilities in the H-2A program during this national emergency will allow farmers to continue to produce and maintain an abundant food supply for all Americans.

Many of our country's farmers rely on the H-2A program for assistance in planting and harvesting operations. By law, our farmers can only receive H-2A workers if they certify that there are not "sufficient able, willing, and qualified U.S. workers available" and that "the employment of an alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed" (8 U.S.C. §1188 and 20 C.F.R. §655.100) Through these necessary provisions, farmers will have access to additional workers, which are crucial to ensure timely crop production.

Our nation is working around the clock to address the COVID-19 crisis, and our farmers are on the front lines of our country's response. The U.S. Department of State has already recognized the vital role our farmers play in our response efforts and has taken steps to provide temporary flexibilities in the H-2A program to make sure our farmers have the workers they need. These steps include:

- Expanding the categories of H-2 applicants whose applications can be adjudicated without an in-person interview;
- Allowing consular officers to waive the visa interview requirement for some first-time and returning H-2 applicants who have no potential ineligibility; *and*
- Increasing the period in which returning workers may qualify for an interview waiver.

As the State Department noted in its fact-sheet announcing these changes: "The H-2 program is essential to the economy and food security of the United States and is a national security priority." We commend the State Department for its efforts to uphold our food security and national security through these flexibilities.

President Trump is using a whole-of-government approach to fight the coronavirus. The State Department's efforts will go a long way in protecting our nation's food supply, but we believe that there is still more that needs to be done.

Your agencies have equities in the functioning of our nation's immigration system, and we urge you to adopt flexibilities that will protect our country's food supply as you administer the H-2A temporary agricultural worker program during this crisis. These flexibilities will ensure that the components of our country's immigration system will operate in harmony with each other as the Federal government responds to this crisis.

We specifically ask that your agencies develop and implement guidance that will:

- Allow approved H-2A workers at the end of a contract period to extend their contracts if they are impacted by travel restrictions imposed by the U.S. government or by the government of their country of origin;
- Increase the maximum length of time for H-2A visas holders to stay in the United States to mitigate the effects of U.S. Citizenship and Immigration Services service center closures during the COVID-19 crisis; *and*
- Allow H-2A employers to share available workers among farms until the Federal government is able to resume normal operations.

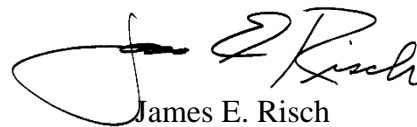
We recognize that this guidance will require significant interagency coordination, and we ask that you prioritize this guidance as you continue your agencies' work to lead our nation through this crisis. We must ensure that our farmers can continue to rely on the H-2A program during this time. It is important that we do everything we can mitigate the potential food shortage that could occur if these changes are not put into place.

Thank you for your leadership during this critical time as our nation continues to combat the coronavirus. We look forward to working with you to ensure food security in United States.

Sincerely,



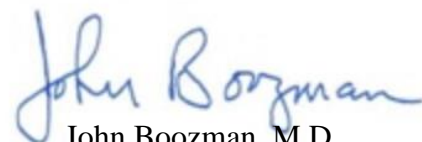
David A. Perdue
United States Senator



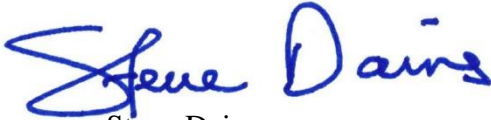
James E. Risch
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